

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL BRYCE JONES,

Plaintiff,

v.

Civ: 21-282

**EDDY COUNTY COMMISSION
the EDDY COUNTY DETENTION CENTER
WARDEN BILLY MASSINGILL, Lt. ARMSTRONG,
Lt. CAPRILLOZI, TODD BANNISTER, and
DARLA BANNISTER,**

Defendant.

DEFENDANTS' NOTICE OF REMOVAL

Defendants Eddy County Commission, Eddy County Detention Center, Warden Billy Massingill, Lt. Caprillozi and Todd Bannister (hereafter "County Defendants"), by and through their counsel, Law Office of Jonlyn M. Martinez, LLC, respectfully file this Notice of Removal in the above-entitled action, and as grounds therefore states:

1. The Plaintiff filed his Complaint on November 25, 2020, in the Fifth Judicial District Court.
2. Upon information and belief, Defendants Eddy County Commission, Eddy County Detention Center, Warden Billy Massingill, Lt. Caprillozi and Todd Bannister, were not properly served with a copy of the summons and Complaint in this matter in accordance with Rule 1-004 NMRA. However, the undersigned hereby accepts service of process on behalf of these Defendants on today's date.
3. Upon information and belief Defendant Darla Bannister and Defendant Lt. Armstrong have not been properly served with the Plaintiff's Complaint. No returns of service have been filed in the State Court Action. These Defendants do not waive proper service of process.

4. The Plaintiff Complaint indicates the Plaintiff is bringing claims under 42 U.S.C. § 1983. *See Plaintiff's Complaint* at Counts IV through VII, attached hereto as Exhibit A.

5. Consequently, the Plaintiff's Complaint sets forth a claim or right arising under the Constitution and laws of the United States and/or a separate and independent claim or cause of action within the jurisdiction conferred on this Court by 28 U.S.C. § 1331. Therefore, this Court has original jurisdiction over this action pursuant to the jurisdiction conferred on this Court by 28 U.S.C. § 1331 and the action may, therefore, be removed to this Court pursuant to 28 U.S.C. §§ 1441(a), (b) and/or (c).

6. No action has been taken by the Defendants in the State Court Action.

7. A true and correct copy of the Plaintiff's Complaint is attached hereto as Exhibit "A." Pursuant to 28 U.S.C. § 1446 and D.N.M.LR-Civ. 81.1(a), a legible copy of all other pleadings, process, orders, records and proceedings from the State Court Action are attached hereto as Exhibit B.

WHEREFORE, Defendants Eddy County Commission, Eddy County Detention Center, Warden Billy Massingill, Lt. Caprillozi and Todd Bannister, respectfully file this Notice of Removal to remove the above-entitled action from the Fifth Judicial District Court for the State of New Mexico to this Court.

Respectfully submitted:

LAW OFFICES OF JONLYN M. MARTINEZ, LLC

By: /s/ Jonlyn M. Martinez

JONLYN M. MARTINEZ
Attorney for County Defendants
P.O. Box 1805
Albuquerque, NM 87103-1805
P: (505) 247-9488

I hereby certify that a copy of the foregoing was sent electronically to the following on March 27, 2021:

Angel L. Saenz
333 S. Campo St.
Las Cruces, NM 88001
(575)526-3333
saenzlaw@zianet.com

David Proper
P.O. Box 1662
Carlsbad, NM 88221
(575) 616-2296
borderlandlaw@gmail.com

/s/